**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO.940 OF 1990

Mahanagar Telephone Nigam Ltd. ..Plaintiffs.

V/s.

M/s.Purshottam Gokaldas. ..Defendants.

Mr.V.D.Shukla for Plaintiffs.

Mr.B.G.Wadhwa for Defendants.

**CORAM: A.M.KHANWILKAR,J**

**DATE : NOVEMBER 2, 2007.**

**P.C. :**

1. This Suit is filed by the Plaintiffs for recovery of amount due and payable by the Defendants in relation to different telephone bills in respect of telephone No.8224944. The Defendants failed to pay the amount demanded by the Plaintiffs, as the Defendants contested the demand being excessive one. As the Defendants failed to pay the amount, the Plaintiffs have had no option but to institute the present Suit for recovery of the amount under the suit bills.

2. In the Written Statement filed by the Defendants, it is reiterated that they were disputing the claim of the Plaintiffs in relation to the suit

telephone bills. In view of the stand taken on behalf of the Defendants, it necessarily follows that a dispute has been raised, which is squarely governed by provisions of Section 7B of the Indian Telegraphs Act, 1885. In such a case, reference of dispute to arbitration under Section 7B of the Act is imperative.

3. Having regard to the mandate of Section 7B of the Act, as expounded by the Apex Court in the case of **Telecom District Manager, Goa & Ors. vs. V.S.Dempo & Co. & Ors. reported in AIR 1996 SC 1545**, the matter deserves to be referred to arbitration. The reference to arbitration is for determination of disputes under Section 7B of the Act, which is a statutory remedy.

4. Counsel for the Defendants fairly submits that since it is a remedy of statutory arbitration, the Defendants are willing to submit to the said proceedings instead of prosecuting the present Suit. However, the Defendants be permitted to raise all contentions available including that the suit claim had become barred by limitation.

5. The Central Government shall notify the

arbitrator before whom the present dispute will be tried and decided in arbitration. The Plaintiffs to intimate competent Authority of the Central Government to take immediate steps to notify the arbitrator in terms of Section 7B of the Act. Such notification shall be issued within eight weeks from today.

6. The arbitrator so appointed shall conclude the arbitration proceedings as expeditiously as possible and in any case, not later than six months from the date he enters upon arbitration or the parties are expected to make first appearances before him, whichever is earlier.

7. Needless to observe that all questions raised in the present Suit at the instance of either side will have to be decided on its own merits in accordance with law in the arbitration proceedings.

8. In view of the above order, the Suit is disposed of. Refund as per rules.

**(A.M.KHANWILKAR,J)**